

JUN 21 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

NICOLASA PEREZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-71265

Agency No. A75-682-653

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 12, 2006**

Before: WALLACE, KLEINFELD, and BERZON, Circuit Judges.

Nicolasa Perez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals order affirming an immigration judge's ("IJ") decision denying her application for cancellation of removal. To the extent

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review due process claims in immigration proceedings de novo, *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review Perez’s contention that the IJ misapplied relevant BIA precedent to the facts of her case because this contention does not amount to a colorable constitutional claim that overcomes the jurisdictional bar to our review of the agency’s discretionary hardship determination. *See Martinez-Rosas* at 930 (“[t]raditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.”); *see also Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001) (holding that the “misapplication of case law” may not be reviewed).

Perez’s contention that the IJ denied her right to a full and fair hearing is unpersuasive. Although the IJ guided Perez’s testimony to address certain factors, Perez’s counsel was able to elicit relevant evidence supporting her hardship claim, and it cannot be said that the proceedings were “so fundamentally unfair that [she] was prevented from reasonably presenting [her] case.” *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted). Moreover, Perez failed to demonstrate

that additional testimony would have affected the outcome of the proceedings.

See id. (requiring prejudice to prevail on a due process challenge).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.